

REMARKS

Claims 1, 2, 4-7, 9-21, 25, and 27-36 are pending in the present application. Claims 6-7, 9-21, 25, 27-28, and 30-33 remain withdrawn from consideration as allegedly being drawn to non-elected subject matter. The present paper and accompanying Declaration include no amendments and do not introduce any new matter. Their entry is respectfully requested. Upon entry of the present paper and Declaration, claims 1-2, 4-5, 29, and 34-36 will remain pending and under examination. Applicants believe these claims are in condition for allowance. Upon indication of allowable subject matter, Applicants will cancel, as appropriate, withdrawn claims that are not rejoined.

Applicants are submitting the attached Rule 132 Declaration of Richard L. Jackson, Ph.D. following a request from Examiner Pryor made in a telephone call to the undersigned on June 29, 2009. As the Examiner noted in the telephone call, Applicants previously submitted in this case (in the paper filed April 20, 2009) a copy of a Rule 132 Declaration by Dr. Jackson that earlier had been submitted in connection with a closely related application, U.S. Application No. 10/625,934, now U.S. Pat. No. 7,396,855. The Declaration was accompanied by data which shows unexpected results concerning both the R- and S-enantiomers of Equol, and thus, as discussed in Applicants' April 20, 2009 Communication, is at least as supportive of the patentability of the present claims as it is of the claims of the related issued U.S. patent. In the June 29, 2009 telephone call, Examiner Pryor indicated that the submitted data was sufficient to overcome the outstanding rejection in the present case, but asked that Applicants submit a revised Declaration that identified the present application's proper Application Number.

Accordingly, the Declaration being submitted herewith reflects such revisions. Applicants note that the revisions are minor and essentially involve, in addition to changing the Application Number to refer to the present case, making proper reference to the particulars of the November 18, 2008 Office Action, such as its mailing date and the specific reference cited and proper reference, where appropriate, to the specific enantiomer recited in the present claims. The analysis of the data and the basic argument presented in the Declaration and in Applicants' April 20, 2009 Communication have not been otherwise changed. Finally, the Exhibits to the Declaration are identical to the copies previously submitted.

In view of the above remarks and evidence, and the comments set forth in Applicants' April 20, 2009 Communication, Applicants believe all of the Examiner's concerns have been fully overcome and that the claims are in condition for allowance. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

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By 

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Attachment: Copy of Rule 132 Declaration

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